

1 17. Notwithstanding these statements, Defendant has not, to the best of Plaintiff's
2 knowledge, initiated any lawsuit against him since the threat of suit was made.

3 18. Defendant placed these repeated calls and made these threats with the intent to
4 deceive, harass, and coerce Plaintiff into paying the alleged debt, without intent to take the
5 action threatened.

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8 **COUNT I**
9 **DEFENDANT VIOLATED § 1692d OF THE**
 FAIR DEBT COLLECTION PRACTICES ACT

10 19. Section 1692d of the FDCPA prohibits debt collectors from engaging in any
11 conduct the natural consequence of which is to harass, oppress or abuse any person in connection
12 with the collection of a debt.

13 20. Defendant violated § 1692d of the FDCPA when it called Plaintiff repeatedly and
14 continuously on his home phone, when it threatened him with legal action, when it threatened to
15 sue Plaintiff if he did not pay the alleged debt by a certain date, and when it engaged in other
16 harassing and abusive conduct.

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18 **COUNT II**
19 **DEFENDANT VIOLATED § 1692d(5) OF THE**
20 **FAIR DEBT COLLECTION PRACTICES ACT**

21 21. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a
22 telephone to ring or engaging any person in telephone conversation repeatedly or continuously
23 with the intent to annoy, abuse or harass any person at the called number.

24 22. Defendant violated § 1692d(5) of the FDCPA when it caused Plaintiff's telephone
25 to ring repeatedly and continuously with the intent to harass or annoy Plaintiff, and when it
engaged in other harassing and abusive conduct.

COUNT III
DEFENDANT VIOLATED § 1692e OF THE
FAIR DEBT COLLECTION PRACTICES ACT

23. Section 1692e of the FDCPA prohibits debt collectors from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

24. Defendant violated § 1692e of the FDCPA when it threatened to sue Plaintiff even though it had no intention of filing suit at that time, and has not sued Plaintiff since the threat was made, and when it engaged in other misleading or deceptive conduct.

COUNT IV
DEFENDANT VIOLATED § 1692e(5) OF THE
FAIR DEBT COLLECTION PRACTICES ACT

25. Section 1692e(5) of the FDCPA prohibits debt collectors from threatening to take an action that is not intended to be taken.

26. Defendant violated § 1692e(5) when Defendant threatened to sue Plaintiff and told Plaintiff that he would be sued by June 25, 2012 if he did not pay the alleged debt, and when Defendant did not intend to take such action.

COUNT V
DEFENDANT VIOLATED § 1692e(10) OF THE
FAIR DEBT COLLECTION PRACTICES ACT

27. Section 1692e(10) of the FDCPA prohibits debt collectors from using any false representation or deceptive means to collect or attempt to collect a debt.

28. Defendant violated § 1692e(10) when it threatened Plaintiff with a lawsuit it did not intend to bring against him, and when it engaged in other misleading or deceptive conduct.

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COUNT VI
DEFENDANT VIOLATED § 1692f OF THE
FAIR DEBT COLLECTION PRACTICES ACT

39. Section 1692f of the FDCPA prohibits debt collectors from using unfair or unconscionable means to collect or attempt to collect an alleged debt.

29. 40. Defendant violated § 1692f of the FDCPA when it called Plaintiff repeatedly and continuously on his home phone, when it threatened him with legal action, when it threatened to sue Plaintiff if he did not pay the alleged debt by a certain date, and when it engaged in other unfair and unconscionable conduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, JOSEPH WODZINSKI, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3);
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, JOSEPH WODZINSKI, demands a jury trial in this case.

1 DATED: 11/08/2012

KIMMEL & SILVERMAN, P.C.

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3 Amy L. Bennecoff

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